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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

YANCE FREDRIK GUNENA,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 06-75344

Agency No. A097-603-257

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted March 18, 2009^{**}

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

Yance Fredrik Gunena, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals' ("BIA") decision dismissing his appeal from an immigration judge's ("IJ") denial of his application for withholding

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

of removal and relief under the Convention Against Torture (“CAT”). Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence the agency’s denial on the basis of an adverse credibility finding and will uphold the agency’s decision unless the evidence compels a contrary conclusion. *Li v. Ashcroft*, 378 F.3d 959, 962 (9th Cir. 2004). We deny in part and dismiss in part the petition for review.

Substantial evidence supports the agency’s adverse credibility determination because Gunena testified that he decided to leave Indonesia after four Muslim men beat him unconscious, but he omitted the attack from a statement that purportedly described all incidents of persecution and discrimination he suffered in Indonesia. *See id.* at 964. Accordingly, we deny Gunena’s withholding of removal claim.

We dismiss Gunena’s CAT claim because he did not challenge the IJ’s denial of CAT relief in his brief to the BIA, and thus failed to exhaust the claim. *See Barron v. Ashcroft*, 358 F.3d 674, 677 (9th Cir. 2004).

We deny Gunena’s due process claim because he failed to demonstrate prejudice. *See Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.